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IM71/0204

EXAMINER

JUSKA, C

ART UNIT

PAPER NUMBER

1771

DATE MAILED:

02/04/99

**Please find below and/or attached an Office communication concerning this application or
proceeding.**

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/166,625

Applicant(s)
May

Examiner
Cheryl Juska

Group Art Unit
1771



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-17 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-17 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the limitation that the “thickness is less than 10.0 mils” is not supported by the specification.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

X 3. Claims 1-17 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for ‘the first layer having a thickness in the range of 1 to 2 mils” (page 4, lines 2-3 and page 10, lines 10-11), does not reasonably provide enablement for the limitation that “said thickness is less than 10.0 mils” as recited in independent claims 1 and 10. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

4. Claims 1-17 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for “a liquid impervious and/or solvent resistant plastic material” (page 6,

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lines 8-10), does not reasonably provide enablement for "a plastic material" as recited in claims 1 and 10. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. The term "plastic material" can include a polymeric fiber or fabric material which may or may not be liquid impervious.

5. Claims 9 and 17 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for "a layer of adhesive material...that facilitates the temporary attachment of bottom layer 14 to surface 11" (page 6, lines 16-18), does not reasonably provide enablement for "an adhesive material" as claimed in said claims. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. The specification teaches that "the bottom layer is treated to resist slipping across or moving relative to surface 11" (page 6, lines 15-16) and that the "drop cloth 10 can be repeatedly removed and reattached to surface 11" (page 6, lines 19-20). However, as presently claimed "an adhesive material" includes permanent adhesives, and temporary adhesives, which may or may not meet all the requirements described in the specification.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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7. Claims 4, 5, 6, 9, 10, 12, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4 and 12 are indefinite for the use of the term "predetermined pattern." The word 'pattern' implies that the fibers of the nonwoven are oriented in a repeating design. It is suggested that the claims be amended with the term "directional orientation," or another similar term.

Claims 5 and 13 are indefinite for the use of the term "random pattern." The term is somewhat contradictory. It is suggested that the claims be amended with the term "randomly oriented," or another similar term.

Claim 6 is indefinite for it is unclear how the natural fibers of the first layer are "fused together." The examiner knows of no natural fibers which are fusible to form a self-bonding nonwoven. If the fusible fibers of the first layer are fibers other than the natural fibers, then said fibers should be positively claimed.

Claim 9 is indefinite for the use of the phrase "said second layer has an adhesive material disposed thereon." It is unclear from said phrase whether the adhesive is applied on a surface of the second layer which is attached to the first layer, or if the adhesive is applied on the surface opposite the first layer. Claim 17 is similarly rejected.

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Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 2, 3, 7, 8, 10, 11, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5, 266,390 issued to Garland in view of U.S. Patent 5,368,912 issued to Reaves.

Claim 1 is drawn to a drop cloth comprising a first layer of nonwoven fabric which includes natural fibers, wherein a thickness of the first layer is less than 10.0 mils, and a second layer of a plastic material. Claim 3 limits the natural fibers to cotton fibers. Independent claim 10 is analogous to claim 1 with the exception that the nonwoven includes of rayon fibers. Claims 2 and 11 limit the thickness of the first layer to a range of 1 to 2 mils. Claims 7 and 15 limit the first layer to be fused to the second layer. Claims 8 and 16 limit the plastic material to polyethylene.

Garland discloses a drop cloth comprising (a) a first layer of a spunbonded polypropylene nonwoven (b) a second of a liquid impervious plastic film layer of polyethylene or polypropylene, (c) a third layer of a spunbonded polypropylene nonwoven, wherein the nonwoven layers are absorbent (claim 1, col. 5, line 50-col. 6, line 17). The thickness of the nonwoven layers is within the range claimed by the Applicant (claim 3, lines 20-23). The layers are bonded together by heat through a nip roller (col. 4, lines 36-63).

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Hence, it can be seen that the Garland patent teaches the limitations of said claims with the exception that the nonwoven layer contain natural or rayon fibers. Garland teaches polypropylene for the nonwoven. However, Garland also teaches the importance of said nonwoven being absorbent of "liquids including moisture, paint thinners, wood stains and solvents..." (col. 3, lines 60-66). Natural fibers, especially cotton fibers, and rayon fibers are well known in the art of absorbent nonwovens. Thus, it would have been obvious to one of ordinary skill in the art to substitute one well-known absorbent fiber for another in produce an absorbent nonwoven. For example, Reaves teaches the equivalence of a cotton absorbent nonwoven and a polypropylene absorbent nonwoven (col. 2, lines 55-65) in a protective cover laminate. Therefore, said claims are rejected as being obvious over the cited prior art.

10. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Garland and Reaves patents, as applied to claims 1 and 10 above.

Claims 6 and 14 limit the nonwoven fabric to have fibers which are fused together. As previously discussed it would have been obvious to one of ordinary skill in the art to substitute natural or rayon fibers for the polypropylene fibers of the Garland invention. Additionally, it would have been obvious to one of ordinary skill in the art of nonwovens to employ a blend of absorbent fibers and fusible fibers in order to produce a nonwoven web which enhances the bonding of the nonwoven to the plastic film layer of Garland. Hence, said claims are rejected.

11. Claims 4, 5, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Garland and Reaves patents, as applied to claims 1 and 10 above.

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Claims 4 and 12 limit the fibers of the nonwoven to be oriented in a predetermined pattern, while claims 5 and 13 limit the fibers of the nonwoven to be oriented randomly. Both fiber orientations are well known in the art of nonwovens. The choice of fiber orientation is a matter of design choice based upon strength requirements of the nonwoven, manufacture costs, and fiber type. Hence, claims 4, 5, 12, and 13 are rejected as being obvious variants of the Garland invention.

12. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Garland and Reaves patents, as applied to claims 1 and 10 above.


Claims 9 and 17 limit the second layer to having an adhesive material disposed thereon. Garland teaches that an adhesive may be applied to the polyethylene or polypropylene film layer just before passing the layers through the heated nip rollers to enhance the bond between said layers (col. 5, lines 12-37). Hence, claims 9 and 17 are rejected.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is (703) 305-4472. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marion McCamish, can be reached at (703) 308-3961. Fax numbers for this Group are (703) 305-3601 and (703) 305-7718.

cj

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Marion McCamish
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